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BIENNIAL MESSAGE

OF

JOHN B. NEIL,

GOVERNOR OF IDAHO,

TO THE ELEVENTH SESSION OF THE LEGISLATURE OF IDAHO TERRITORY.

BOISE CITY, IDAHO:
PRINTED AT THE STATESMAN OFFICE.
1880.

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TO THE ELEVENTH SESSION OF THE LEGISLATURE OF IDAHO TERRITORY.

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MESSAGE.

Gentlemen of the Council and House of Representatives:

Permit me to cordially welcome you to the Capital, and to congratulate you that you meet at a most auspicious period in the history of the country. Profound peace prevails everywhere throughout the Nation, and there exists no cause of difference, no serious complication with any foreign Power, while universal prosperity, general health and happiness prevail to an extent seldom, if ever, before known. Appropriately acknowledging the Source from whence spring these blessings let us earnestly hope that all causes of difference, all sectional divisions heretofore existing among us, may disappear, and be supplanted by an era of good feeling and unity of purpose, and that with one accord all the people may press forward to fulfill our common destiny.

In obedience to law, and in accordance to custom, I proceed to lay before you the condition of the affairs of the Territory, and to recommend the adoption of such measures as seem to me expedient and necessary.

FINANCE.

It is with peculiar satisfaction that I find myself enabled to present a statement respecting the financial affairs of the Territory, highly gratifying and assuring in most respects,

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The total assessed value of all the real and personal property in the Territory has increased from $4,520,800 in 1878, to $6,408,089 in 1880.

The receipts from all sources, during the year 1879, were $47,180.78. The receipts up to October 1st of the present year were $53,645.68, which, with the balance remaining in the treasury at the date of the last report—$7,270.07—would make the total receipts $108,096.53 for the years 1879 and 1880.

The disbursements for all purposes—including the amount paid in the redemption of outstanding warrants of previous years—for the year 1879, and up to November 10th, 1880, were $93,086.59, leaving a balance in the treasury, at that date, of $15,009.94. The Treasurer estimates the receipts for the quarter ending December 31st, 1880, at $25,000.00, and the ordinary disbursements for the same period at $5,400.00, leaving an estimated balance in the treasury at the close of the year, including the amount on hand November 10th, of $34,609.94.

There are, however, warrants outstanding against the treasury, amounting, with accrued interest, to $15,159.90, and also the item of $3,972.75, interest on bonds—coupons due Dec. 1st, 1880—making a total floating indebtedness of $19,132.65. With the close of the present year it is confidently believed the sum in the treasury will be amply sufficient to discharge this indebtedness, and leave a balance remaining to the credit of the several funds of over $15,000.00. For the first time in the history of the Territory the receipts are likely to considerably exceed the expenditures. Happily, the problem so often confronted by your predecessors of devising means to meet current expenses, without increasing the rate of taxation, does not present itself to you.

In view of the foregoing statement, it is obvious that taxes might with safety be measurably reduced. But, inasmuch as the Territory is burdened with a bonded indebtedness, amounting to $69,248.60, provision for the payment of which

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must ultimately be made, I would suggest the creation of a Sinking Fund, from the surplus revenues hereafter arising, for the redemption of the bonds as fast as they mature. It is true no portion of this debt falls due prior to 1885. While it might be entirely safe to defer making provision for its liquidation until some years hence, it is much safer and infinitely wiser to do so now, when the financial condition of the Territory fully warrants and invites such action, rather than postpone the step, in the hope that a more favorable opportunity will arise in the future. By maintaining the present rate of taxation, which is neither excessive nor burdensome, the surplus revenues would, in a few years, no doubt, amount to a sum adequate for the purpose.

By reducing the rate of taxation you would necessitate your immediate successors levying a special tax (which is always an unpleasant duty) for the payment of the bonds maturing in 1885. Moreover, reducing the rate of taxation *might* result in reducing the revenues to a point where they would be inadequate to meet current expenses.

Without submitting any special plan for the creation of a Sinking Fund, the subject is recommended for your consideration.

While the financial affairs of the Territory are shown to be in a satisfactory condition, it is impossible to indicate the state of affairs, respecting finances, existing in the different counties. There is no provision of law requiring local authorities to report to the Territorial officers in relation to county or other local indebtedness. In the absence of such information it is difficult to understand how this body can legislate intelligently upon measures affecting the welfare of the various counties, or other localities.

Measures should be at once adopted requiring county auditors to report annually to the Territorial Comptroller the precise amount and nature of the indebtedness of their respective counties.

The laws of the Territory limit the amount of taxes that

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may be levied *annually* for county purposes, but there is no limitation to the amount of debt for a single purpose, or the total amount for all purposes, which local authorities may contract. The ease with which county boards are induced to authorize large expenditures, suggests the wisdom of placing some restrictions upon the power to incur debt. The amount of debt which any local authority may contract, should be limited to a certain percentage of the taxable property of such locality. Another mode of restricting the abuse of the powers of taxation and of incurring debt, would be the adoption of a general provision, requiring that all extraordinary expenditures should have the approval of those who are to bear their burden. All such propositions should be submitted to a vote of the people, and no tax be levied unless approved by a majority of all the voters of the locality to be affected by the tax — the number of votes to be determined by reference to the votes cast at the general election next preceding such special election.

COMMON SCHOOLS.

The common school system of the United States, emanating from the Fathers, and afterwards more perfectly established in the State of New York in 1812, is justly regarded as the best educational system in the world. However, it cannot be said to have yet reached the highest perfection, notwithstanding the numerous and important improvements engrafted upon the original plan—so vast is the sphere it is destined to fill. In the future, we may expect to see the mechanical arts and trades and every branch of knowledge valuable in practical life, embraced among the studies taught in the public schools. That we are largely indebted to the common schools for the preservation and improvement of our free institutions, there can be no doubt; that they promote the welfare and improve the morality of every community where they are in successful operation, cannot be questioned, and that crime is decreased by their establishment and maintenance, is a proposition easily

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demonstrated. It is an old saying that for every dollar expended in the establishment and support of common schools, two are saved that would otherwise have been spent in the prosecution of crime. Therefore, we are bound by considerations of the highest patriotism, by proper regard for the welfare and prosperity of the Territory, and in the interest of a wise economy, to encourage, improve and extend our Territorial school system.

Our experience is not unlike that of all new and sparsely settled regions. Our public schools have not, as yet, accomplished any grand results, nor have they reached a very high degree of efficiency and usefulness; still, considering the circumstances of the people, and the many difficulties with which they have had to contend, commendable progress has been made, and there is every reason for encouragement.

In 1877 there were 96 school districts in the Territory and 4,028 children attending the public schools. The number of districts reported in 1880 is 149, and the number of children in attendance 6,698. This shows that the interest in the subject of popular education is growing, and we may confidently hope that the time is not far distant when the intelligence of the people will demand, and the wise liberality of our legislators accord, the means of placing a good education within the reach of all.

The amount raised for school purposes during the years 1879 and 1880 was $82,272.02. The collection of this sum was severely felt by the people, yet they have responded generously and without complaint. The fund has, however, been insufficient to meet the demands made upon it. In many districts the schools have been open for only a few weeks or months of the year, and in many instances the meagerness of the salaries which the fund would justify, has resulted in securing teachers wholly incompetent to perform the important work expected of them.

The weakest spot in the school system of this Territory is the existing mode of Territorial and county supervision. The

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Territorial Comptroller is by law made the Superintendent of Public Schools. For this extra duty he receives no compensation whatever. While it may be said with truth that the present incumbent has discharged the duties with ability and fidelity, it is not, and cannot be expected, under the circumstances, that he will give the time and attention to the supervision of the public schools that they require. The duties of Territorial Comptroller and those of Superintendent of Schools are distinct and separate, wholly unlike in their nature, and each too important to be imposed upon the same person. I urgently recommend the separation of these offices, and suggest the wisdom of creating a Department of Public Instruction, with a head to be selected wholly with reference to fitness for the position. The duties of the position should be well defined by law.

I also recommend a change in the plan of county supervision. This work is now imposed on county auditors, and, being unlike their other duties, is performed by them with reluctance. This officer is not elected with reference to school interests; his other duties require most of his time, and it is not improbable that he is often compelled to neglect school matters.

The best school system is in the end the cheapest; and if we intend to elevate our public schools to the proper standard, important changes in the present school law will be found necessary,—all of which I cannot now undertake to point out.

The portion of the public lands (the 16th and 36th sections of each township) set apart by the laws of Congress for school purposes, are not available until the Territory is admitted as a State. I would therefore suggest the propriety of petitioning Congress for a donation of lands, or an appropriation of money, to be immediately available for school purposes. The duty of Congress, to make provision for the education of the youth of the country, is but partially performed, so long as the assistance freely lavished upon the rich and prosperous States is denied to the weak and struggling Territories.

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Simple justice demands that help be given to all, and to all alike. Sooner or later Congress must recognize this fact, and provide the assistance so much needed.

REVISED STATUTES—AMENDMENTS, ETC.

You are informed that but 68 copies of the revised laws of this Territory are now left in the hands of the Secretary, and most of these will doubtless be required to meet the demands of the Legislature, and public officers, before the next meeting of your body. A revision of the statutes cannot in justice to the wants of the people, be much, if any longer delayed. Many of the most important statutes, which should always be compactly codified, are scattered through the volumes of session laws, published both before and since the last revision; some of which are indexed and others not; so that an accurate knowledge of our statute law has become very difficult if not almost impossible to obtain. I submit these facts for your consideration.

If it is not deemed best to authorize a complete revision and codification of the laws at this time, many amendments, modifications and changes of existing statutes will be found necessary in order to eliminate conflicting provisions of different laws, with other inconsistencies and ambiguities of an inharmonious nature. Experience and observation have undoubtedly suggested most of these defects to your members, and others will present themselves from time to time.

Special attention is directed to the imperfections of the election laws, as respects the provisions for punishing frauds upon the ballot box; all kinds af frauds are not made punishable. These defects should be remedied by the adoption of such additional clauses as will most effectually prevent the perpetration of any sort of fraud upon the ballot. Every guard having the sanction of experience, should be thrown around the ballot box, so that it may never contain aught else than an honest expression of the popular will.

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SUPREME COURT REPORTS.

Your attention is called to the fact that no volume of the decisions of our Supreme Court has as yet been published, except a small one, containing a few cases, printed in 1867. This, however, was never complete, and is now out of print. For a long time past this Territory has been receiving for the Territorial library the reports of many of the States and Territories, and has given nothing in exchange. The inferior courts of the Territory are in no way informed of the decisions of the Supreme Court and cannot be governed by them. In view of the fact that no private firm will publish such a volume without Territorial aid, and in justice to the States and Territories that are furnishing their reports, and to the wants of the people, it is suggested that aid be given to insure the publication of a volume containing all the decisions of the Supreme Court from its organization to the present time, by taking a specified number of the volumes at a given price, to be distributed in such manner, and to such officers as you may direct.

COUNTY BOUNDARIES.

The boundary between Alturas and Lemhi counties is fixed by law to be at latitude 44 deg. 30 m. North, an imaginary line which cannot be definitely known or fixed without an astronomical observation or survey. The settlement of what is known as the Yankee Fork country, being in the immediate proximity of that line, has given rise to questions of jurisdiction over property and person in that vicinity, and suits are now pending in which those questions are involved.

There is also a question as to the boundary between Alturas and Oneida counties, south of Mud Lake.

These questions are too important to be decided upon conjectural or uncertain testimony, and I recommend such legislation as will define those boundaries, either by fixing them with reference to natural objects, or by providing for such surveys or observations as will determine their location.

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JUDICIAL AND DISTRICT ATTORNEY DISTRICTS.

Since the passage of the act creating District Attorney Districts, several new counties have been organized, which have not been assigned to districts, namely: Cassia, Washington and Lah Toh counties. If the present system of electing prosecuting officers by districts is to be continued in force, these counties should now be assigned to districts.

Your attention is invited to the fact that the Judicial and District Attorney Districts are not identical as now constituted. This causes great inconvenience and embarrassment in many respects, but particularly in fixing the time of holding Court in the different counties, so as to accommodate the Judges, District Attorneys and other interested parties. The counties composing a Judicial District should also constitute a District Attorney District. A better plan, however, would be to abolish the office of District Attorney, and instead provide for the election of a prosecuting officer in each county. It is believed such a change would be more efficient than the present arrangement, and not more expensive, the County Attorneys simply taking the place of the District Attorneys and their Deputies. This change, if made, should not go into effect until two years hence, so that no injustice may be done the officers chosen at the last general election.

MINING.

The discoveries and developments of the past two years have given an impetus to mining enterprises, which places all that concerns this interest among the subjects of first importance. The existence of valuable deposits of the precious metals was known prior to the organization of the Territory, but the remoteness of the mining regions to lines of travel, and the isolated situation of the country, prevented the fact from becoming widely known, and operated to keep capital from coming to the aid of the miner and prospector, in consequence of which, development has been greatly retarded.

But the recent discovery of rich and extensive belts of

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mineral, and the certain advent of railroads, have had the effect of attracting general attention to the mineral resources of Idaho. Capital and operators from the older fields of enterprise are flowing in at a rate that could not have been foreseen a few months ago.

The new, rich mining districts in Alturas and Lemhi counties will be the first to be benefited by this changed condition of affairs, because of their accessibility, and nearness to the coming railroads; still, the impulse and life thus given to mining will be felt in every district in the Territory.

In promoting so important an interest, and in furthering the work of discovery and development, it is scarcely needful to say that nothing should be left undone by the people, or their representatives, that will give encouragement to the prospector searching for new mines, or to the capitalist seeking investment in those already discovered. The general mining laws of the United States, and the decisions of the Courts, fix and govern the rights of prospectors and miners as regards extent, dimension of claims, and settle most of the controversies likely to arise between adverse claimants; yet it is left to Territorial Legislatures to form or amend statutes touching the subject, and to those who shape and control local customs to impose conditions and restrictions in the matter of locating, recording and holding of claims, which may sometimes be justly complained of as unnecessary and burdensome. All legislation upon this subject should be uniform and liberal, keeping constantly in view the fact that whatever is done to encourage this industry will have a powerful influence upon the general prosperity.

RAILROADS.

The completion of the Utah and Northern Railroad through Eastern Idaho has done much to increase population and hasten development in that section. From a business point of view, the road has been a decided success. Already it is feared the road — a narrow gauge — will prove inadequate to meet the

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rapidly increasing demands of travel and trade. The eminent success of the enterprise, with other pressing considerations, no doubt, has induced the projection of lines to and through other portions of the Territory. It is reported that the building of a line of railway from Ogden, Utah, to Boise City, to connect there with a line from some point on Puget Sound or Yaquina Bay, are enterprises now well under way. The com pletion of these lines, with branches penetrating to every portion of the Territory, will solve the problem of rapid communication and easy transportation, not only among ourselves, but with the East and West, insuring the speedy settlement of the Territory and the full development of its marvelous resources.

While not in favor of granting extraordinary privileges to railroads, I am also opposed to legislation of an unfriendly character; but shall favor extending every proper encouragement and aid toward such enterprises. We must bind ourselves to the rest of the world with bands of iron, or remain comparatively isolated and unknown.

IMMIGRATION.

Most of the newer States and Territories have in operation some system of encouragement to immigration. Although this Territory has more than doubled in population during the past decade, all the elements are here to sustain in comfort and prosperity a much larger number of people. Our fertile valleys and plains, watered by swift, noble streams, our boundless ranges of pasturage, a climate not elsewhere surpassed, the beauty and grandeur of the natural scenery, and the vastness of our mineral wealth all offer unequaled attractions. Here, then, are the features and resources which ought to insure the speedy settlement in our midst of an industrious, intelligent people. But the fact is, Idaho, as yet, is but little known, and, unless attention is directed to the advantages it is able to offer, the growth of the Territory and the development of its resources will be very slow.

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The last Session of the Legislature adopted a joint resolution requesting the Hon. E. J. Curtis, of Boise City, "to prepare a reliable history and correct statistical record, showing in an authentic form the nature and extent of the agricultural resources and productions of the Territory," etc., etc. This report, when prepared, was to be submitted to this body for such use or disposition as you might see proper. No appropriation was made to defray the expense of collecting the statistics, and no compensation provided for the time and labor expended in the work by Mr. Curtis. It is my impression that little, if anything, has been done by him towards complying with this request of the Legislature. Under the circumstances it is hardly reasonable to suppose any one would care to undertake the important task. Such a work is greatly needed, and I earnestly hope this Legislature may provide for the compiling of a report similar in all respects to the one contemplated by the Resolution heretofore mentioned. In addition, I suggest the appointment of a Commissioner of Immigration, whose duty it should be to employ all means, proved by experience to be efficient, to induce people to settle in the Territory. It may be objected that this is too expensive a plan to undertake at present, but I am convinced it would in the end produce results so beneficial, that it could not be regarded as other than an economical measure.

INDIANS.

During the past two years, there have been no disturbances with the Indians, and the people have enjoyed unusual security of life and property, even in those portions of the Territory heretofore most exposed to danger. The punishment inflicted upon the Indians during the Nez Perce and Bannock wars has caused them to remain upon their reservations. Considerable progress towards civilization has been made among them, and many in the Territory now make their living by pasturage and farming. The wise and beneficent policy of the general Government, of inducing the Indians to select lands in severalty,

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should receive the support of all who believe in dealing fairly and honestly with them. This policy, if successful, will not only prevent cruel and disastrous wars with the Indians, in the future, but will also eventually throw open to cultivation and settlement some of the richest portions of the public domain, now embraced within the limits of Indian reservations.

Prior to the time when the reservation in the Eastern part of Idaho was set apart for the Shoshone and Bannock Indians, a portion of the land selected was settled upon by whites who still remain within the boundaries of that reservation. In order to avoid the possibility of serious trouble over this matter, the settlers should either be paid for their improvements and removed, or the cession by the Indians of that portion of the reservation should be obtained. A memorial to Congress, setting out the facts, would no doubt be the proper course to pursue.

RIGHTS OF MARRIED WOMEN.

A bill "to establish and protect the rights of married women," will be presented to you at the proper time, and if there be any right denied woman in Idaho, to which she is justly entitled, I bespeak for this measure favorable action on your part. Our neighbors on the West have recently adopted a measure similar in all its features to the one which will be submitted for your consideration. If upon examination it be ascertained that existing statutes do not protect and secure married women in all their "inalienable rights," I feel certain you will "right the wrong," and place Idaho in full accord with the most enlightened public sentiment of the age on this question.

APPORTIONMENT.

The apportionment for members of this Legislature was made under authority of an act of Congress approved June 3rd, 1880. If the present assignment of the members of the Council and House of Representatives is not in all respects just and equitable to the different sections of the Territory, it

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is within your power to remedy all defects, or to make an entirely new apportionment, if deemed best.

POLYGAMY.

In 1862 Congress enacted a law to punish and prevent the practice of polygamy in the Territories. That act, specially designed to break up the practice in Utah, was made applicable to all the Territories, but, as is well known, it has not proved effectual. On the contrary, the evil is no longer confined to Utah, but has spread into the adjoining Territories. Idaho has not escaped its blighting presence. Many persons in this Territory are living in open, undisguised violation of the anti-polygamy law of Congress, and of the laws of Idaho relating to the same offense. The law of Congress is inoperative for the reason that these plural marriages are contracted outside the Territory, invariably in some Utah temple or endowment house, consequently our courts have no jurisdiction under that act. Our statute has been found defective as a means of punishing polygamists, for the reason that it is necessary under it to prove the ceremony. This, as before stated, is found to be impossible — the ceremony being performed in a secret manner, and all who witness or participate bound by the most dreadful oaths to reveal nothing that transpires. There is good reason to believe, that among other objectionable features of this most unhallowed oath is an obligation each participant and witness assumes to testify falsely when called upon to give evidence respecting the ceremony.

In my opinion, Idaho is in danger of becoming a second edition of Utah, and as there is nothing which could affect her interests so injuriously as the domination of her affairs by a licentious priesthood, I earnestly hope you may, without delay, adopt measures calculated to suppress and effectually crush out polygamy. All who now maintain, and all who may hereafter enter into polygamous relations, should be dealt with severely and rigorously. I also favor punishing those who advise persons to commit this offense, and all who preach the so-called

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doctrine. The people of this Territory who have not surrendered their right to think and act for themselves — all who abhor and detest the doctrine that the practice of polygamy is the only safe means of salvation, all who do not believe in sinking woman to the level of the beast, but who demand that her present exalted position in society be forever secured to her, all who do not believe in permitting the revival in our midst of the most indecent and disgusting practice of barbarous ages, and all who do believe in vindicating the law, and in protecting and preserving our free institutions from the encroachments of those who hate and defy this Nation,— these, and they constitute a large majority of the people, all demand that this evil be no longer ignored, but that it be completely and effectually uprooted. Congress should be memorialized to amend the act of 1862, so as to make polygamous cohabitation, after marriage in another Territory, an offense, and to change the rules of evidence so as to make such cohabitation proof of the offense, thus giving our Courts jurisdiction under that act; our statute relating to bigamy should be similarly amended, thus giving to the United States and Territorial Courts co-ordinate jurisdiction. In addition laws should be enacted providing severe penalties for the crime of lewd and lascivious cohabitation, and that of adultery. These measures should be of a general character, so as to reach all who commit those offenses.

If these measures are deemed insufficient to break up the practice of polygamy, I unhesitatingly announce myself as in favor of disfranchising, and disqualifying for office, not only those who practice, but all who confess to a belief in the pernicious doctrine.

Though there are other obnoxious ideas advanced by those who preach and practice polygamy, I do not now care to discuss them. When it is made clear to those who favor that doctrine, that its practice cannot and will not be tolerated, they will also be impressed with the fact that all attempts to subvert

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the institutions of this country, and in their place establish a Theocracy, will prove as futile.

Having directed attention to this evil, I must admonish you that if this body adjourns without adopting measures to eradicate it, the people will regard it as an admission of inability, or unwillingness, to cope with polygamy.

REPORTS.

Herewith I have the honor to submit the biennial Reports of the Treasurer, Comptroller and Superintendent of Public Instruction.

As they contain detailed statements respecting the subjects to which they pertain, the information derived from them will enable you to legislate intelligently upon such questions.

It is with pleasure I express my obligations to these officers for the care and fidelity with which they have discharged their important trusts.

CONCLUSION.

The organic act limits your session to forty days, and I, therefore, wish to remind you that there is sufficient business of importance to occupy the entire time. I trust the error into which too many Legislative bodies fall, of deferring action on important subjects until the closing days of the session, may be avoided by this.

In conclusion, allow me to express the hope that you may be governed solely by a desire to promote the best interests of the Territory, and that all of your acts may be of a character to secure the approbation of those whose servants you are — the people.

All your efforts to promote the welfare and advance the interests of the people of Idaho, shall have my earnest co-operation, uninfluenced, I trust, by any motive other than a sin-

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cere desire to perform my duty faithfully — in a manner to satisfy all that it is my inflexible purpose to discharge the trust confided in me without fear or favor.

J. B. NEIL.

EXECUTIVE DEPARTMENT,
BOISE CITY, Dec. 13th, 1880.

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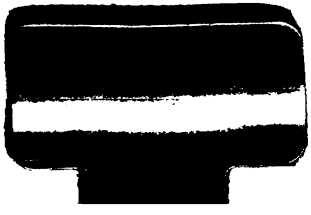

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